

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No. 3027 of 2014 (O&M)
Date of decision :24.10.2017

State of Punjab and another

...Appellants

Versus

Gurbachan Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI.

Present: Mr. H.S. Sitta, AAG, Punjab.

Mr. Surinder Sharma, Advocate,
for the respondents.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing the suit filed by the respondent in which she had claimed that she would be entitled to family pension on account of death of her son in accident, since his wife had remarried and abandonment the family. The Courts below decreed the suit primarily in view of judgments in **'State of Punjab Vs. Vasdev Singh, 2007 (3) recent Services Judgments 228, and Tej Kaur Vs. State of Punjab 1993 (3) SLR 104'**, wherein Rule 6.17 of the Punjab Civil Services Rules Vol. II was held to be arbitrary and unreasonable, to the extent it excluded the parents of the deceased Government employees, from the concept of 'Family'.

Learned Assistant Advocate General has argued that these judgments seems to have been passed without noticing the judgment of the Supreme Court in **'State of Punjab Vs. Devinder Kaur, (1999) 9 SCC 12'**, wherein the Supreme Court held this restrictive provision to be valid.

Learned counsel for the respondent is not in a position to cite any contrary judgment of the Supreme Court. In the present case also, at the time when death of the son of the appellant had occurred, the restrictive provision was enforced. Counsel for the respondents has, however, argued that even in Devinder Kaur's case (supra), the Supreme Court had not deprived the mother of the benefit she had been getting as per the judgments of the lower Courts. However, in that case, their Lordships had stipulated that had been done 'on the facts of this case and not as a precedent'.

Under these circumstances, the appeal is allowed and the judgments of the Courts below are set aside and the suit is dismissed.

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(AJAY TEWARI)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No